

Read first time and referred to Judiciary Committee.

Senate bill No. 29, "An act to validate the registration of deeds and other evidence of title in certain cases," was read, amendments of committee adopted, and bill, as amended, read second time and ordered engrossed.

Senate bill No. 53, "An act prescribing the mode of procedure in district courts in matters of probate," was read second time and ordered engrossed.

Senator Swift offered the following resolution:

*Resolved*, That the clerk of Committee on Privileges and Elections be required to also act as clerk for the Committee on Claims and Accounts.

Adopted.

On motion of Senator Culberson, the Senate adjourned to 10 o'clock A. M., tomorrow.

## NINETEENTH DAY.

SENATE CHAMBER,  
AUSTIN, February 3, 1874. }

Senate met pursuant to adjournment.

The President of the Senate being absent, Senator Dillard took the chair, and stated that the President had requested him to act in his absence, but that he would prefer the Senators would elect a presiding officer.

Senator Westfall moved that Senator Dillard be elected by acclamation. Carried.

Roll called; quorum present.

Prayer by the chaplain.

The journal of yesterday was read and adopted.

Senator Russell presented a petition from citizens of Cameron county, "Asking that the auditorial board be re-constituted, and the time for presentation of claims thereto extended." Read first time and referred to Committee on State Affairs.

Senator Camp, for Judiciary Committee, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

The Judiciary Committee, to whom was referred House bill No. 58, "An act validating the authentication and registration of certain instruments of writing," instruct me to report that they have had said bill under consideration, and report the same back with the recommendation that it do pass.

CAMP, for Committee.

*Hon. R. B. Hubbard, President of the Senate:*

The Judiciary Committee, to whom was referred Senate bill No. 91, "An act for the relief of purchasers of university lands, and to validate the patents heretofore issued," have had the same under consideration, and instruct me to report the same back with the recommendation that said act be amended as follows: Strike out all of sec-

tion four. Amend further by making section five section four, and section six section five. After said bill is amended as above, the committee recommend that the same do pass.

CAMP, for Committee.

Senator Friend, for Judiciary Committee, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

The Judiciary Committee, to whom was recommitted Senate bill No. 34, "An act to regulate proceedings in the district courts, respectfully report, that the same has again been considered by the committee, and they instruct me to report the same back, with the recommendation that it do not pass.

W. R. FRIEND, for Committee.

Senator Wood, for Judiciary Committee, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

The Judiciary Committee, to whom was referred Senate bill No. 59, "An act to allow the several county courts of the State to levy and collect special taxes in certain cases," have carefully considered the same, and instruct me to report the same back to the Senate, with the recommendation that the same do pass, with the adoption of the accompanying amendments.

All of which is respectfully submitted.

WOOD, for Committee.

A message was received from the House announcing the passage of the following bills: House bill No. 57, "An act to authorize the County Court of Aransas county to levy a special tax to build a jail;" House bill No. 116, "An act to give effect to the Constitution of the State, as amended, so far as it relates to the Supreme Court;" Senate bill No. 14, "An act to authorize district judges to inquire into the sufficiency of the bonds of justices of the peace."

Senator Flanagan, for Judiciary Committee, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Judiciary, to whom was referred Senate bill No. 80, "An act to prevent speculations by officers or agents in county, city or town contracts or liabilities," have had the same under consideration, and after careful examination, instruct me to report it back to the Senate and recommend that it do pass.

FLANAGAN, for Committee.

Senator Wood, for Judiciary Committee, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

The Judiciary Committee, to whom was referred Senate joint resolution, No. 70, "Asking our Senators and Representatives in Congress to procure an appropriation by Congress to improve the navigation of Soda Lake and Cypress bayous," have considered the same, and report the same back to the Senate and recommend that the same do pass.

WOOD, for Committee.

Senator Bradley, for Judiciary Committee, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee, to whom was referred Senate bill No. 30, "An act concerning landlords and tenants," have again carefully considered the same, and report the same back to the Senate with the recommendation that the same do pass.

Respectfully submitted by the Judiciary Committee.

BRADLEY, for Committee.

Senator Hobby, for Judiciary Committee, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Judiciary, to whom was referred Senate bill No. 73, "An act to amend 'An act prescribing the times of holding the courts in the several judicial districts in the State,'" approved November 25, 1871, ask leave to report the same back with the following amendment, to-wit: "In the county of Polk on the first Mondays in June, October and February, and may continue in session three weeks," and recommend the passage of the bill as amended.

Respectfully submitted,

HOBBY, for Committee.

Senator Culberson, chairman Committee on Internal Improvements, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Internal Improvements, to whom was referred Senate bill No. 89, "An act to incorporate the Southwestern Railroad Company, and to grant lands to aid in the construction of its road," report that they have carefully examined the same, and instruct me to report it back with the recommendation that it do pass.

D. B. CULBERSON, Chairman.

Senator Culberson for Judiciary Committee, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Judiciary to whom was referred Senate bill No. 77, "An act to authorize county courts to sell public lands belonging to their respective counties," have considered the same, and in view of the great importance of the proposed measure, the committee instruct me to report the bill back, and recommend that one hundred copies of the act be printed.

CULBERSON, for Committee.

Senator Flanagan moved that the rules be suspended and the report be considered. Carried.

Report of committee adopted, one hundred copies of the bill ordered printed, and on motion of Senator Culberson, the bill was re-committed to the Judiciary Committee.

Message from the House was received, announcing the passage of Senate bill No. 13, "An act to amend 'An act prescribing the times of holding the district courts in

the several judicial districts in the State,'" approved August 10, 1870.

Senator Wood introduced a bill, entitled "An act to further regulate the proof and acknowledgment of deeds and other written instruments, now permitted or required by law to be recorded." Read first time and referred to Judiciary Committee.

Senator Russell introduced a bill, entitled "An act to regulate pawn brokerage." Read first time and referred to Judiciary Committee.

Senator Hobby introduced a joint resolution "To amend section six, of article five, of the State Constitution." Read first time and referred to the Committee on Constitutional Amendments.

Senator Davenport introduced a joint resolution "Authorizing the Executive to employ one or more additional clerks."

Read first time, and on motion of Senator Westfall, the rules were suspended, resolution read second time and ordered engrossed.

On motion of Senator Westfall, the rules were further suspended, resolution read third time and passed.

Senator Stirman offered the following resolution:

*Resolved,* That the Committees on State Affairs and Retrenchment and Reform, be authorized to employ a clerk; and when said clerk is not employed on said committees, he shall report to the Committee on Comptroller's and Treasurer's Accounts for duty.

The hour for the special order having arrived, the President announced that it would now be considered.

The special order, Senate bill No. 64, "An act amendatory of 'An act supplementary to an act authorizing the disposition and sale of the university lands,'" approved August 30, 1856, approved November 12, 1866, was taken up and read second time.

Senator Wood moved to amend, as follows, by adding:

Section .... In case any portion of the said university lands are not sold and taken up by actual settlers, or those desiring to settle on the same, and actually do settle on the same, within the period of six months after the same are open for sale and settlements in any county in this State under the provisions of this act, any person who may desire to purchase same may do so; *provided*, they shall not be sold for less than the minimum price fixed by the commissioners, and the same terms as to credit and payment shall be extended to such persons as to actual settlers on said lands; *provided*, no person, other than an actual settler, or one who is entitled to settle under the provisions of this act, shall be permitted to purchase less than 100 acres; *and provided*, further, that if, under the provis-

ions of this section, any improved land should be sold to any person other than an actual settler, such person, in addition to the appraised value, under this act, of said land, shall pay, in addition, the enhanced value of the same, caused by the improvement; which enhanced value shall be assessed, under oath, by two disinterested freeholders of the county where situated, and by them, at the cost of the purchaser, be reported to the Commissioner of the General Land Office, who shall add the same to the appraised value of said land, under this act; and when other than a settler applies for purchase, his application shall be accompanied by his affidavit, stating that there is no actual settler on the land; and stating further, whether it is improved or unimproved. Adopted.

Senator Erath moved to amend as follows:

Section . . . That whenever such university lands have heretofore been surveyed, and maps of recent surveys exist in the Land Office, the Governor shall, as soon as practicable after the passage of this act, appoint the appraisers; and the lands may be sold as soon thereafter as practicable, in compliance with the rules and forms prescribed in this act. Adopted.

Senator Bradley moved to amend as follows: Amend section five, eleventh line, by adding after the words "in writing," the following, "that they are in no wise interested in said land by settlement upon the same, or otherwise, and." Adopted.

The bill as amended, was then ordered engrossed.

On motion of Senator Allison, the rules were further suspended, bill read third time and passed.

Senator Parker moved to reconsider Senate bill No. 23, "An act to expedite business in the district courts." Carried.

Senator Allison moved to recommit the bill to Judiciary Committee. Motion adopted, and bill recommitted.

Senator Swift offered the following address, to-wit:

*To His Excellency Richard Coke, Governor of the State of Texas:*

The House of Representatives of the State of Texas, the Senate concurring therein, do hereby address your Excellency, and would represent that one L. W. Cooper, Judge of the Third Judicial District, composed of the counties of Houston, Angelina and Trinity, is unfit to hold the office of Judge of the District Court, for the reasons following, to-wit:

First, He is unqualified for the position of district judge, because of the fact that he is possessed of no adequate amount of legal learning, and is, therefore, incompetent.

Second, By reason of his incompetency he has failed to discharge the duties of his

office, resulting, in the county of Houston, in the obstruction of public justice, by the unnecessary accumulation of business, and the virtual denial of justice to parties seeking redress in the judicial tribunals of that county.

Third, The said judge has been guilty of gross partiality to his political friends and associates in the discharge of his official duties, as evidenced by his rulings and official conduct in the case of *The State of Texas v. . . . Gireaux*, the same now pending on appeal in the Supreme Court at this place, wherein, after a gross perversion of the law, in his charge to the jury in the interest of the said party defendant, he did fix the appeal bond at one hundred dollars, when the jury had rendered a verdict against the defendant for two hundred dollars, he being charged with an aggravated assault and battery, or false imprisonment, for having, as a policeman, placed irons and handcuffs on a citizen of Houston county, on the plea that he had not obeyed E. J. Davis's high handed usurpation, known as his "Election order," in 1871, when said citizen had violated no law of the land. And further, the said judge then accepted as bondsmen Wm. Hood and . . . . . as the sureties, without requiring an oath of them as the law provides, and refusing to allow the attorneys representing the State to have their solvency tested, when it was then asserted, and a notorious fact, that said sureties were wholly insolvent; and for other acts and rulings in said cause, evincing a disposition to favor the defendant at the expense of public justice. Also, for many other acts of similar character in numerous cases, where the said judge has manifested his partiality for his political friends of the Radical persuasion, which this House will reserve the right hereafter to specify.

Fourth, For attempting to use and in using his official influence as judge aforesaid in persuading parties prosecuting and others concerned, and in various ways attempting to defeat the operation of the law, by hearing and attempting to secure the dismissal of cases where parties were charged with grave offenses against the law. As evidenced in his conduct in certain causes pending in the District Court of Angelina, styled *The State of Texas v. Wm. Benner et al*, wherein defendants were charged with murder, and thereafter for wrongful conduct and erroneous rulings and charge to the jury in said cause, whereby he sought to secure the acquittal of said parties, and did thereby secure the acquittal of the defendants at the expense of public justice and to the scandal of the judicial authority; and for many other similar acts throughout his district in the interest of his political and personal friends, which this House will reserve the right to hereafter specify.

Fifth. For his gross and unbearable partiality for his son-in-law, H. W. Moore, a practicing attorney in his court, whereby his whole judicial authority and influence are and have been exerted in the interest of the said Moore, both in civil and criminal cases, to the prejudice of other attorneys of the said court, resulting in great injustice to parties litigant, and bringing judicial authority into disgrace, as evidenced by his nearly every official act where the said Moore was concerned, and as evinced by his rulings and charge in cause of E. M. Collins vs. Thomas F. Cook, now pending on appeal in Supreme Court at this place, to which reference is made. And for many other similar acts, which this House reserves the right hereafter to specify.

Sixth. For presiding in the cause of The State of Texas v. W. D. Taylor, pending in Houston county, wherein defendant is charged with murder, and making rulings therein in the interest of the said Taylor, when the said judge had previously been engaged as the attorney of the said Taylor, (and his said son-in-law was then one of the attorneys for the said Taylor,) all in contempt of the law, and in utter disregard of his official oath.

Seventh. For compounding felony in the case of The State v. Abe Smith, pending in Houston county, wherein the defendant was charged with theft; whereby the said judge did receive the sum of one hundred dollars as an inducement for and in consideration of his thereafter having the said Smith discharged, or some such similar service, whereby the said Smith was promised that he should not be further troubled in said cause; and that the said judge thereafter failed and refused to discharge his duty in said cause, and has failed to have said Smith brought to trial and has refused, on application of the attorney representing the State, to allow a forfeiture taken on said Smith's bond, though the said Smith had repeatedly and uniformly failed and refused to attend the said court, as required by his said bond, and for many other derelictions of duty and corruptions in office, which this House reserves the right hereafter to specify.

*Resolved*, That the address just read, requesting the removal of Judge L. W. Cooper, be referred to a joint special committee of five members of the House and three on the part of the Senate, the Senate concurring therein, and that said committee report the proper mode of procedure in such case.

Adopted.

And the following Senators were appointed on said committee to confer with the House committee on said address, to-wit: Senators Swift, Bradshaw and Ball.

Senator Culberson offered the following resolutions:

*Resolved*, That the presiding officer of the Senate, cause the secretary to prepare thirty tickets, and shall place on ten of said tickets the figures two, on ten of said tickets the figure four, and the remaining ten of said tickets the figure six, and shall place the same in a hat and have the same properly prepared for allotment. Whereupon the secretary of the Senate shall call the roll by districts in the order of their number, and as each district is called a page of the Senate shall draw a ticket, and the number on said ticket so drawn shall be the term of the Senator from such district, and shall so be enrolled.

*Resolved further*, That this drawing and allotment of term, shall take place at 12 o'clock to-day.

Adopted.

Senator Friend offered the following bill, "An act for the relief of K. Bigham White." Read first time and referred to Committee on Private Land Claims.

Senator Swift offered the following resolution, to-wit:

*Resolved*, That a committee of three from the Senate and five from the House of Representatives be appointed to take into consideration the propriety of reducing the number of judicial districts in the State, and a reduction of the salaries of officers as provided in article twelve, section eight, general provisions of the Constitution, and report as soon as practicable.

Adopted.

The hour having arrived for the Senators to draw for terms, the Senators proceeded to draw, with the following result:

Senators Ball, Camp, Ireland, Morris, Russell, Trolinger and Wood, drew two year terms.

Senators Bradshaw, Bradley, Culberson, Dillard, Flanagan, Hobby, Moore, Parker, Randle and Swift, drew four year terms.

Senators Allison, Baker, Davenport, Dwyer, Ellis, Erath, Friend, Lebetter, Stirman and Westfall, drew six year terms.

There being no Senators present from the Twelfth, Thirteenth and Sixteenth Districts, terms were drawn for them, each district drawing two year terms.

On motion of Senator Flanagan, the Senate adjourned to 10 o'clock A. M. to-morrow.

## TWENTIETH DAY.

SENATE CHAMBER,  
AUSTIN, February 4, 1874. }

Senate met pursuant to adjournment. The President being absent, on motion of Senator Westfall, Senator Dillard was elected to act as presiding officer during the day.